



February 22, 2002

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## ENGROSSED SENATE BILL No. 144

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DIGEST OF SB 144 (Updated February 20, 2002 11:10 AM - DI 87)

**Citations Affected:** IC 34-30; IC 36-3; IC 36-4.

**Synopsis:** Civil liability of city controllers. Provides that the city controller of a second class city or a consolidated city is not individually liable for an act or omission that occurs in connection with the controller's duty as fiscal officer of the city.

**Effective:** July 1, 2002.

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### Lanane, Long, Broden, Alting

(HOUSE SPONSORS — RESKE, FOLEY)

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January 7, 2002, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

January 31, 2002, reported favorably — Do Pass.

February 4, 2002, read second time, ordered engrossed. Engrossed.

February 5, 2002, read third time, passed. Yeas 49, nays 0.

#### HOUSE ACTION

February 11, 2002, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

February 21, 2002, amended, reported — Do Pass.

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ES 144—LS 6708/DI 106+



February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED SENATE BILL No. 144

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 34-30-2-153.3 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2002]: **Sec. 153.3. IC 36-4-10-4.5 (Concerning**
- 4 **the personal liability of the clerk treasurer of a third class city).**
- 5 SECTION 2. IC 34-30-2-153.4 IS ADDED TO THE INDIANA
- 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2002]: **Sec. 153.4. IC 36-3-5-2.6 (Concerning**
- 8 **the personal liability of the controller of a consolidated city).**
- 9 SECTION 3. IC 34-30-2-153.5 IS ADDED TO THE INDIANA
- 10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2002]: **Sec. 153.5. IC 36-4-10-2 (Concerning**
- 12 **the personal liability of the city controller of a second class city).**
- 13 SECTION 4. IC 36-3-5-2.6 IS ADDED TO THE INDIANA CODE
- 14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 15 1, 2002]: **Sec. 2.6. The controller is not liable, in an individual**
- 16 **capacity, for any act or omission occurring in connection with the**
- 17 **performance of the controller's duty as a fiscal officer of the**

ES 144—LS 6708/DI 106+



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1 **consolidated city, unless the act or omission constitutes gross**  
2 **negligence or an intentional disregard of the controller's duty.**

3 SECTION 5. IC 36-4-10-2 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) A city clerk shall  
5 be elected under IC 3-10-6 by the voters of each second class city, and  
6 a city clerk-treasurer shall be elected under IC 3-10-6 by the voters of  
7 each third class city.

8 (b) The city clerk or clerk-treasurer is the clerk of each city.

9 (c) The city controller appointed under IC 36-4-9-6 is the fiscal  
10 officer of each second class city, and the city clerk-treasurer is the  
11 fiscal officer of each third class city.

12 (d) **The city controller of a second class city is not liable, in an**  
13 **individual capacity, for any act or omission occurring in**  
14 **connection with the performance of the city controller's duty as**  
15 **fiscal officer of the second class city, unless the act or omission**  
16 **constitutes gross negligence or an intentional disregard of the**  
17 **controller's duty.**

18 (e) The term of office of a city clerk or clerk-treasurer is four (4)  
19 years, beginning at noon on January 1 after election and continuing  
20 until a successor is elected and qualified.

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SENATE MOTION

Mr. President: I move that Senator Long be added as second author of Senate Bill 144.

LANANE

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SENATE MOTION

Mr. President: I move that Senator Broden be added as second author of Senate Bill 144.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 144, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 144 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred Senate Bill 144, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 34-30-2-153.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 153.3. IC 36-4-10-4.5 (Concerning the personal liability of the clerk treasurer of a third class city).**

SECTION 2. IC 34-30-2-153.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 153.4. IC 36-3-5-2.6 (Concerning the personal liability of the controller of a consolidated city)."**

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 3. IC 36-3-5-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 2.6. The controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the controller's duty as a fiscal officer of the consolidated city, unless the act or omission constitutes gross negligence or an intentional disregard of the controller's duty."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 144 as printed February 1, 2002.)

KUZMAN, Chair

Committee Vote: yeas 12, nays 0.

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